



AR0030

SFUND RECORDS CTR
0229-91452

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105

SFUND RECORDS CTR
88022014

September 26, 1991

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
VIA EXPRESS MAIL

McDonnell Douglas Corporation
John F. McDonnell
Chief Executive Officer
P.O. Box 516
St. Louis, MO 63166

Re: Tucson International Airport Superfund Site,
Tucson, Arizona
Remedial Investigation and Feasibility Study

Dear Mr. McDonnell:

This letter serves two basic functions. First, it notifies you that a 60-day period of formal negotiations with the Environmental Protection Agency (EPA) automatically begins with your receipt of this letter. Second, this letter provides you with general and site-specific information to assist you in these negotiations.

NOTICE OF POTENTIAL LIABILITY

As indicated in the general notice letter regarding the site referred to above (the "Site") sent to you in August 1987, EPA has information indicating that you are a liable party as defined in Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9607(a), as amended (CERCLA), with respect to the Site.

NEGOTIATION MORATORIUM

EPA has determined that use of special notice procedures established by Section 122(e) of CERCLA will facilitate a settlement between EPA, you and the other potentially responsible parties ("PRPs") for the Site. Therefore, pursuant to CERCLA Section 122(e)(2) and EPA policy, this letter triggers a 60-day moratorium on certain EPA response activities at the site. During this 60-day period, the PRPs, including you, are invited to participate in formal negotiations with EPA. You are also encouraged to voluntarily negotiate a settlement providing for the PRPs, including you, to conduct or finance the response activities required at the Site. The 60-day negotiation period ends on November 26, 1991. The period will be extended for an additional

30 days if PRPs provide EPA with a good faith offer to conduct or finance the remedial investigation/feasibility study (RI/FS). Should a 90-day negotiation moratorium take place, negotiations will conclude on December 26, 1991. If settlement is reached between EPA and the PRPs within the 90-day negotiation moratorium, the settlement will be embodied in a consent order for the RI/FS.

STATEMENT OF WORK AND PROPOSED CONSENT ORDER

Copies of EPA's statement of work and proposed administrative order on consent are attached. These are provided to assist you and the other PRPs in developing a good faith offer for conducting the RI/FS.

GOOD FAITH OFFER

As indicated, the 60-day negotiation moratorium triggered by this letter will be extended for 30 days if the PRPs submit a good faith offer to EPA. A good faith offer to conduct or finance the RI/FS is a written proposal that demonstrates the PRPs' qualifications and willingness to conduct or finance the RI/FS and includes the following elements:

1. A statement of willingness by the PRPs to conduct or finance the RI/FS that is consistent with EPA's statement of work and proposed administrative order and provides a sufficient basis for further negotiations.
2. A paragraph-by-paragraph response to EPA's statement of work and proposed administrative order, including a response to any other attached documents.
3. A detailed description of the work plan identifying how the PRPs plan to proceed with the work.
4. A demonstration of the PRPs' technical capability to carry out the RI/FS, including the identification of the firm(s) that may actually conduct the work or a description of the process they will use to select the firm(s).
5. A demonstration of the PRPs' capability to finance the RI/FS.
6. A statement of willingness by the PRPs to reimburse EPA for costs incurred in overseeing the PRPs' conduct of the RI/FS.
7. The name, address, and phone number of the party or steering committee who will represent the PRPs in negotiations.

LIST OF RECIPIENTS; OTHER COSTS

A list of the names and addresses of PRPs to whom this notification is being sent is attached. Exclusion from the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Site.

EPA has spent funds in connection with response actions at the Site and expects to spend additional funds for the RI/FS. Whether EPA funds the entire RI/FS, or simply incurs costs by overseeing the parties conducting it, you may be held liable for EPA's prior and future expenditures, plus interest.

PRP STEERING COMMITTEE

EPA recommends that all PRPs meet to select a steering committee responsible for representing the group's interests. Establishing a manageable group is critical for successful negotiations with EPA. Alternatively, EPA encourages each PRP to select one employee who will represent its interests.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), EPA must establish an administrative record that contains the documents that form the basis of EPA's selection of a response action for the Site. The administrative record will be available to the public for review and comment. The primary location for the administrative record is generally the EPA Region IX office.

PRP RESPONSE AND EPA CONTACT PERSON

You are encouraged to contact EPA as soon as possible to indicate your willingness to participate in negotiations regarding the Site. In any event, you have until the date set forth above to provide EPA with the written good faith described above. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your liability for the response, and that you have declined any involvement in performing the response activities. You may be then held liable by EPA under Section 107 of CERCLA for the cost of the response activities EPA performs at the Site and for any damages to natural resources. In addition, you may incur liability to other parties.

Your response to this letter should be sent to:

U.S. Environmental Protection Agency
Craig Cooper, H-7-2
75 Hawthorne St.
San Francisco, CA 94105
(415) 744-2370

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

Please direct technical questions on this matter to Craig Cooper at the above address and legal questions to Roger Klein of EPA's Office of Regional Counsel (415-744-1311).

Very truly yours,



Jerry Clifford
Deputy Director for Superfund

Attachments

Persons to Which Special Notice Has Been Sent

City of Tucson
Thomas J. Volgy, Mayor
City Hall
P.O. Box 11337
Tucson, AZ 85734

Tucson Airport Authority
Walter A. Burg
General Manager
7005 S. Plumer Ave.
Tucson AZ 85706

General Dynamics Corp.
James Mellor
Chief Operating Officer
Pierre Laclede Center
St. Louis MO 63105

McDonnell Douglas Corp.
John F. McDonnell
Chief Executive Officer
P.O. Box 516
St. Louis MO 63166

United States Air Force
Gary Vest
Deputy Secretary for Environment,
Safety, and Occupational Health
Department of the Air Force
SAF/MIQ
Pentagon
Washington D.C. 20330-001

National Guard Bureau
Lt. General John D. Conaway
Chief, National Guard Bureau
NGB-ZA
Pentagon, Room 2E394
Washington D.C. 20310-2500